

Climate-Related Disclosure Less of an SEC Priority

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A [recent GAO report](#) concluded that the SEC has no plans to require more climate-related disclosure.

In guidance issued in 2010, the SEC staff identified four categories of climate-related topics that could cause disclosure: impacts of legislation and regulation; the impact of international accords; indirect consequences of regulation or business trends and physical changes, such as the effect of severe weather. The guidance was issued when Congress was considering legislation that would have limited greenhouse gas emissions by establishing a cap-and-trade program, but it was never enacted.

At the time the guidance was issued, the SEC and its Investor Advisory Committee indicated that they would determine whether further guidance or rulemaking was necessary by monitoring the impact of the guidance, holding a roundtable and putting it on the agenda for the Investor Advisory Committee. The roundtable did not take place, and there are currently no plans to hold one or make it part of the Investor Advisory Committee mandate because of changed circumstances.

The lack of cap-and-trade legislation made the issue a lower priority for the agency. Implementing the Dodd-Frank and the JOBS Acts became more important. In addition, the original Investor Advisory Committee was disbanded because a new one was created by Dodd-Frank, which resulted in different membership. The Committee indicated that other issues, such as the Dodd-Frank requirements, are more important.

The GAO reviewed the impact of the guidance in a select study of companies in the auto, electric services, insurance, manufacturing, mining, oil and gas and agriculture industries. It found that companies provide some climate-related risk disclosure, but there was not a significant difference in the disclosure prior to the issuance of the guidance and afterwards. The GAO also determined that companies may provide climate-related information through other channels, including corporate websites, NGOs and in response to reporting requirements from foreign governments.

A Ceres study reported that the SEC staff sent a little over 20 comment letters related to climate change disclosure in the three-year period from 2010 to 2013: 17 in 2010, 5 in 2011, 3 in 2012 and none in 2013.

The SEC staff stated that climate-related disclosure may be part of its disclosure effectiveness project. Interestingly, the SEC does not have a subject matter expert for climate-related issues because they believe that the disclosure does not require technical expertise to understand it, unlike, for example, disclosures related to oil and gas reserves, which require the expertise of petroleum engineers.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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